

REMARKS

Claims 30-34, 90, 94-96, and 99 are pending in the application. Claims 34 and 96, and respective dependent claims 94 and 99, have been amended to replace the phrase “isolated plant cell” with the phrase “host plant cell.” Support for this amendment resides in original claim 34 (directed to a “host cell”), previous claim 52 (reciting a “plant cell” as the host cell), and in the specification, for example, at page 12, lines 27-31, and at page 13, lines 21-22. No new matter is added by way of these amendments to the claims; their entry into the above-identified application prior to its issuance as a patent is therefore respectfully requested.

The claim amendments presented here are made to correct an obvious error that has come to the attention of Applicants’ representative when considering the Notice of Allowance and the allowed claims. In the Amendment under 37 C.F.R. §1.111 dated November 3, 2010, claims 34, 94, 96, and 99 were amended to include the limitation that the host cells are “plant” cells. In the “Amendments to the Claims” section, the “strike-through” version of these amended claims should have been presented as “~~isolated~~ host plant cell” rather than “isolated ~~host~~ plant cell.” As the Examiner is well aware, recitation of a “host plant cell” encompasses plant cells in culture as well as plant cells in whole plants, not just “isolated” plant cells. See the specification, for example, at page 13, lines 21-22, stating “[w]hen the host cell is a plant cell, transgenic plants can be regenerated from transformed host cells.” Entry of these claim amendments is respectfully requested to correct this obvious error.

Applicants respectfully submit that entry of these claim amendments post-allowance of this application will not necessitate a further search or examination. The Examiner has already acknowledged the novelty and non-obviousness of the claimed polynucleotides, expression cassettes comprising these polynucleotides, and plant cells comprising these expression cassettes. Furthermore, the Examiner has already acknowledged that the specification fully enables claims drawn to transformed plants, and thus transformed plant cells, comprising these expression cassettes. See the Office Action mailed June 23, 2009, at item 2 on page 4.

Appl. No.: 10/574,046
Amendment Dated March 10, 2011
Reply to Notice of Allowance Mailed January 31, 2011

In view of the foregoing remarks, Applicants respectfully request the Examiner to enter these claim amendments into the above-identified application prior to its issuance as a patent. If in the opinion of the Examiner a telephone conference would expedite the entry of these claim amendments, the Examiner is invited to call the undersigned.

It is not believed that any fee is required to allow consideration of this paper. However, the Commissioner is hereby authorized to charge any such fee to Deposit Account No. 16-0605.

Respectfully submitted,

/leslie t. henry/

Leslie T. Henry
Registration No. 45,714

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Research Triangle Area Office (919)862-2200
Fax Research Triangle Area Office (919)862-2260

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON MARCH 10, 2011.